
SUBSTITUTE SENATE BILL 5369

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Agriculture & Rural Economic Development
(originally sponsored by Senators Rasmussen, Schoesler, Mulliken,
Sheldon, Delvin, Shin, Morton and Jacobsen)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to the potato commission; amending RCW 15.66.270;
2 adding a new chapter to Title 15 RCW; creating new sections; providing
3 an effective date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The production of potatoes within this
6 state is in the public interest. It is vital to the continued economic
7 well-being of the citizens of this state and their general welfare that
8 its potato industry be encouraged by enabling producers of potatoes to
9 help themselves in establishing orderly, fair, sound, efficient, and
10 unhampered marketing, trade, grading, and standardization of the
11 potatoes they produce.

12 (2) It is in the public interest that support for the potato
13 industry be clearly expressed, that adequate protection be given to the
14 industry, and that the industry's collective activities and operations
15 include:

16 (a) Enhancing the reputation and image of Washington state's
17 potatoes and potato producers;

18 (b) Working to eliminate or limit impediments affecting the sale

1 and use of Washington state's potatoes in local, domestic, and foreign
2 markets;

3 (c) Protecting the public by educating the public in reference to
4 the quality, care, and methods used in the production of Washington
5 state's potatoes;

6 (d) Increasing the public knowledge of nutritional value, health-
7 giving qualities, and dietetic value of Washington state's potatoes and
8 products; and

9 (e) Supporting and engaging in programs or activities that benefit
10 the planting, production, harvesting, handling, processing,
11 transportation, trade, and use of potatoes produced in Washington
12 state.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

15 (1) "Affected area" or "area of production" are synonymous and mean
16 the state of Washington.

17 (2) "Affected handler" means any handler of potatoes who is subject
18 to this chapter.

19 (3) "Affected producer" means any producer who is subject to this
20 chapter.

21 (4) "Assessment" means the monetary amount established in this
22 chapter that is to be paid by each affected producer to the commission
23 in accordance with the schedule established in this chapter.

24 (5) "Commercial quantities" means and includes five hundredweight
25 or more.

26 (6) "Commission" means the potato commission established in this
27 chapter.

28 (7) "Department" means the department of agriculture of the state
29 of Washington.

30 (8) "Director" means the director of agriculture of the state of
31 Washington or any qualified person or persons designated by the
32 director of agriculture to act for him or her concerning some matter
33 under this chapter.

34 (9) "District" means the geographical divisions of the area of
35 potato production established under this chapter.

36 (10) "Fiscal year" means the twelve-month period beginning July 1st
37 of any year.

1 (11) "Handler" means any person who acts, either as principal,
2 agent, or otherwise, in the processing, packing, shipping, selling, or
3 distributing of potatoes that are not produced by the handler.
4 "Handler" does not include a common carrier used to transport an
5 agricultural commodity. "To handle" means to act as a handler.

6 (12) "Hosting" includes providing meals, refreshments, lodging,
7 transportation, gifts of nominal value, reasonable and customary
8 entertainment, and normal incidental expenses at meetings or
9 gatherings.

10 (13) "Hundredweight" or "affected unit" are synonymous and mean
11 each one hundred pound unit or any combination of packages making a one
12 hundred pound unit of potatoes.

13 (14) "Mail" or "send," for purposes of any notice relating to rule
14 making, referenda, or elections, means regular mail or electronic
15 distribution, as provided in RCW 34.05.260 for rule making. For the
16 purposes of this definition, "electronic distribution" or
17 "electronically" means distribution by electronic mail or facsimile
18 mail.

19 (15) "Person" includes any individual, firm, corporation, limited
20 liability company, trust, association, partnership, society, or any
21 other organization of individuals or any unit or agency of local or
22 state government.

23 (16) "Potatoes" means and includes all kinds and varieties of Irish
24 potatoes grown in the state of Washington and marketed, sold, or
25 intended for use for human consumption.

26 (17) "Producer" means any person who is engaged in the production
27 for market of potatoes in commercial quantities and who has a
28 proprietary interest in the potatoes grown in the state of Washington.
29 For purposes of this chapter, "producer" includes a landowner,
30 landlord, tenant, or other person who participates in the growing or
31 producing of potatoes. "To produce" means to act as a producer.

32 (18) "Referendum" means a vote by the affected parties or affected
33 producers that is conducted by secret ballot.

34 (19) "Sale" means a transaction wherein the property in or to
35 potatoes is transferred from the producer to a purchaser for
36 consideration. "Sale" includes an agreement to acquire such property
37 for a consideration.

1 (20) "Trade relations hosting" means the hosting of individuals and
2 groups of individuals at meetings, meals, and gatherings for the
3 purpose of cultivating trade relations for Washington state potatoes
4 and potato products.

5 (21) "Unfair trade practice" means any practice that is unlawful or
6 prohibited under the laws of the state of Washington including but not
7 limited to Titles 15, 16, and 69 RCW and chapters 9.16, 19.77, 19.80,
8 19.84, and 19.83 RCW, or any practice, whether concerning interstate or
9 intrastate commerce that is unlawful under the federal trade commission
10 act of 1914, as amended (38 Stat. 719; 15 U.S.C. Sec. 41 et seq.) or
11 the violation of or failure accurately to label as to grades and
12 standards in accordance with any lawfully established grades or
13 standards or labels.

14 (22) "Vacancy" means that a commission member leaves or is removed
15 from a position on the commission before the end of a term, or a
16 nomination process for the beginning of a term concludes with no
17 candidates for a position.

18 NEW SECTION. **Sec. 3.** (1) The potato commission is hereby
19 established to administer this chapter. Commission members must be
20 citizens and residents of Washington and at least eighteen years of
21 age. The commission shall be composed of fifteen members, nine of whom
22 shall be producers elected from districts as provided in subsections
23 (2) and (3) of this section, five who are appointed by the elected
24 producer members as provided in subsection (4) of this section, and one
25 member appointed by the director from the department to represent the
26 director as a voting member.

27 (2) For the purpose of nomination and selection of producer members
28 of the commission, the affected area of the state of Washington shall
29 be divided into three representative districts as provided in this
30 subsection.

31 (a) District 1 is the counties of Douglas, Chelan, Okanogan, Grant,
32 Adams, Lincoln, Ferry, Stevens, Pend Oreille, Spokane, and Whitman.

33 (b) District 2 is the counties of Kittitas, Yakima, Klickitat,
34 Benton, Franklin, Walla Walla, Columbia, Garfield, and Asotin.

35 (c) District 3 is the counties of Skagit, Whatcom, and all other
36 counties not named in (a) or (b) of this subsection.

1 (3) Producer members shall be elected from the districts as
2 follows:

- 3 (a) Positions 1, 2, 3, and 4 shall be elected from district 1;
- 4 (b) Positions 5, 6, 7, and 8 shall be elected from district 2; and
- 5 (c) Position 9 shall be elected from district 3.

6 (4)(a) Positions 10, 11, 12, 13, and 14 shall be appointed by the
7 elected producers as provided in subsections (1) and (5)(b) of this
8 section.

9 (b) Position 15 shall be appointed by the director as provided in
10 subsection (1) of this section.

11 (5)(a) Producer members of the commission shall be producers of
12 potatoes in the district in and for which they are nominated and
13 elected. The producer members shall be and have been actively engaged
14 in producing the potatoes in this state for a period of at least three
15 years, and shall derive a substantial proportion of their incomes from
16 the sale of potatoes. A producer member of a commission must have paid
17 an assessment on potatoes adopted by the commission or its predecessor
18 commission in each of the preceding three calendar years. The
19 qualifications of producer members of the commission must continue
20 during their term of office.

21 (b) Members appointed to positions 10, 11, 12, 13, and 14 by the
22 elected producers shall be either Washington potato producers,
23 handlers, or others active in matters directly relating to Washington
24 state potatoes and have a demonstrated record of service in the potato
25 industry in Washington state. The appointed members of the commission
26 shall be elected by a majority of the elected commissioners.

27 (6) The term of office of the commission members is three years
28 from the date of their election or appointment and until their
29 successors are elected and qualified.

30 (7) Nomination and election of commission members is as provided
31 for in this subsection (7).

32 (a) Not earlier than March 18th and not later than April 2nd of
33 each year, the director shall give notice by mail to all producers in
34 a district where a vacancy will occur, of such vacancy or such
35 vacancies and call for nominations. Nominating petitions shall be
36 signed by five persons qualified to vote for candidates. The notice
37 shall state the final date for filing petitions, which shall be not
38 earlier than April 7th and not later than April 12th of each year.

1 (b) The director shall mail ballots to all affected producers in
2 the district in which the vacancy will occur not earlier than April
3 17th and not later than May 2nd of each year. Ballots shall be
4 postmarked not later than June 1st of that year. The mailed ballot
5 shall be conducted in a manner so that it shall be a secret ballot in
6 accordance with rules adopted by the director. An affected producer is
7 entitled to one vote.

8 (8) The members of the commission not elected by the producers
9 shall be elected by a majority of the commission within ninety days
10 before the expiration of the member's term.

11 (9)(a) To fill a vacancy caused by the failure to qualify of a
12 person elected by the producers as a member of the commission, or in
13 the event of the death, removal, resignation, or disqualification of
14 any elected member, the director shall call for nominations and give
15 notice by mail to all producers in the district where the vacancy
16 occurred. A valid nominating petition must be signed by at least five
17 persons qualified to vote for the nominated candidate and must be
18 returned to the director. The notice shall state the final date for
19 filing a nomination petition. If more than one valid nomination is
20 submitted, the director shall conduct an election and mail ballots to
21 all producers in the district where the vacancy occurred.

22 (b) To fill vacancies caused by reasons other than the expiration
23 of an appointed term, the new commission members shall be elected by
24 the commission at its first or second meeting after the occurrence of
25 the vacancy.

26 (c) In the event that a nomination process for the beginning of a
27 term of an elected member concludes with no candidate, a new member
28 shall be appointed by the commission. The appointment shall be made at
29 the commission's first or second meeting after the expiration of the
30 previous term.

31 NEW SECTION. **Sec. 4.** The commission may:

- 32 (1) Administer, enforce, and implement this chapter;
- 33 (2) Elect a chair and such other officers as the commission may
34 deem advisable and select subcommittees of commission members;
- 35 (3) Employ and discharge at its discretion an executive director,
36 additional personnel, attorneys, consultants, research agencies, and

1 other persons and firms that it may deem appropriate, and compensate
2 its employees;

3 (4) Acquire personal property and lease office space and other
4 necessary real property and transfer and convey the same;

5 (5) Institute and maintain in its own name any and all legal
6 actions, including actions by injunction, mandatory injunction, or
7 civil recovery, or proceedings before administrative tribunals or other
8 governmental authorities necessary to implement this chapter;

9 (6) Keep accurate records of all its receipts and disbursements,
10 which records shall be open to inspection, and make annual reports
11 therefrom to the state auditor;

12 (7) Borrow money and incur indebtedness;

13 (8) Make necessary disbursements for routine operating expenses;

14 (9) Collect the assessments of producers as provided in this
15 chapter and expend the same in accordance with and to effectuate the
16 purposes of this chapter;

17 (10) To prepare a budget or budgets covering anticipated income and
18 expenses to be incurred in carrying out the provisions of this chapter
19 during each fiscal year;

20 (11) Accept and receive gifts and grants from private persons or
21 private and public agencies and expend the same to effectuate the
22 purposes of this chapter;

23 (12) Work cooperatively with other local, state, and federal
24 agencies; universities; and national organizations for the purposes of
25 this chapter;

26 (13) Enter into contracts or interagency agreements with any
27 private or public agency, whether federal, state, or local, to carry
28 out the purposes of this chapter; however, personal service contracts
29 must comply with chapter 39.29 RCW;

30 (14) Enter into contracts or agreements for research and education
31 in the production, irrigation, processing, transportation, use,
32 distribution, and trade barriers impacting potatoes and potato
33 products;

34 (15) Retain in emergent situations the services of private legal
35 counsel to conduct legal actions on behalf of the commission;

36 (16) Participate in international, federal, state, and local
37 hearings, meetings, and other proceedings relating to the production,
38 irrigation, manufacture, regulation, transportation, trade,

1 distribution, sale, or use of potatoes as requested by any elected
2 official or officer or employee of any agency and as authorized under
3 RCW 42.17.190, including the reporting of those activities to the
4 public disclosure commission;

5 (17) Assist and cooperate with the department or any other local,
6 state, or federal government agency in the investigation and control of
7 exotic pests and diseases that could damage or affect trade and export
8 of potatoes;

9 (18) Acquire or own intellectual property rights, licenses, or
10 patents and collect royalties resulting from commission-funded research
11 related to potatoes;

12 (19) Engage in appropriate fund-raising activities for the purpose
13 of supporting activities of the commission authorized by this chapter;

14 (20) Establish a foundation using commission funds as grant money
15 for the purposes established in this chapter;

16 (21) Maintain a list of the names and addresses of affected
17 producers that may be compiled from information used to collect
18 assessments under this chapter and data on the value of each producer's
19 production under this chapter. This list may be compiled from
20 information used to collect producer assessments for a three-year
21 period;

22 (22) Maintain a list of the names and addresses of persons who
23 handle potatoes within the affected area and data on the amount and
24 value of the potatoes handled by each person under this chapter for a
25 minimum three-year period;

26 (23) Check records of producers or handlers of potatoes during
27 normal business hours to determine whether the appropriate assessment
28 has been paid; and

29 (24) Exercise such other powers and perform such other duties as
30 are necessary and proper to effectuate the purposes of this chapter.

31 NEW SECTION. **Sec. 5.** (1) The commission shall by resolution
32 establish a headquarters, which shall continue as the headquarters
33 until changed by the commission, where the books, records, and minutes
34 of the commission meetings shall be kept.

35 (2) Any action taken by the commission requires the majority vote
36 of the members present, and a quorum must be present.

37 (3) A quorum of the commission consists of at least nine members.

1 (4)(a) Members of the commission shall be compensated in accordance
2 with RCW 43.03.230. Members and employees of the commission shall
3 receive travel expenses in accordance with RCW 43.03.050 and 43.03.060
4 for each day spent in actual attendance at or traveling to and from
5 meetings of the commission or on special assignments for the
6 commission.

7 (b) Members and employees may be reimbursed for actual travel
8 expenses incurred in carrying out this chapter as provided by rules
9 adopted by the commission. In developing these rules, the commission
10 shall review the special allowances for foreign travel and other travel
11 involving higher than usual costs for subsistence and lodging adopted
12 by the office of financial management as provided in RCW 43.03.050(1).

13 (5) In addition to notice of meetings of the commission as required
14 by the open public meetings act, chapter 42.30 RCW, notice of the
15 meetings shall also be published in the commission newsletter and sent
16 to appropriate general and agricultural media outlets.

17 NEW SECTION. **Sec. 6.** Obligations incurred by the commission and
18 any other liabilities or claims against the commission may be enforced
19 only against the assets of the commission in the same manner as if it
20 were a corporation. No liability for the debts or actions of the
21 commission exist against either the state of Washington or any
22 subdivision or instrumentality thereof or the assets thereof or against
23 any member officer, employee, or agent of the commission in his or her
24 individual capacity. The members of the commission, including
25 employees thereof, may not be held responsible individually in any way
26 whatsoever to any person for errors in judgment, mistakes, or other
27 acts, either of commission or omission, as principal agent, person, or
28 employee, except for their own individual acts of dishonesty or crime.
29 No such person or employee may be held responsible individually for any
30 act or omission of any other member of the commission. Liability of
31 the members of the commission is several and not joint and no member is
32 liable for the default of any other member.

33 NEW SECTION. **Sec. 7.** The purpose of this chapter is to promote
34 the general welfare of the state and maintain and protect existing
35 markets, increase production efficiency, ensure a fair regulatory

1 environment, and increase use and consumption of potatoes produced in
2 Washington. The commission shall conduct the programs in this section
3 in accordance with this chapter.

4 (1) The commission may investigate and take necessary action to
5 prevent or eliminate unfair trade and regulatory barriers and practices
6 and correct, where possible, trade and regulatory barriers and
7 practices that hinder the sale, production, transport, and export of
8 Washington-produced potatoes or potato products. If the commission
9 finds as a result of the investigation that trade, regulatory, or
10 transportation barriers are restricting the free flow of potatoes
11 produced in this state, the commission may institute appropriate action
12 before any agency or body deemed necessary to correct the situation.
13 Information acquired in an investigation is confidential and may be
14 released only to the extent necessary to effectuate the purposes of
15 this chapter, including but not limited to information regarding:

16 (a) The prevention, modification, or elimination of trade and
17 regulatory barriers that restrict or inhibit the production, transport,
18 consumption, export, or sale of potatoes produced in this state;

19 (b) Presentation of technical information or facts to and
20 negotiations with state, federal, or foreign governmental agencies on
21 matters that affect the production, irrigation, transport, use,
22 consumption, export, or sale of potatoes grown in this state, including
23 cooperation with any agency or group in efforts to increase consumption
24 or use of potatoes, and such other activities and programs that are
25 consistent with the objectives of this chapter; and

26 (c) Investigating transportation rates and service costs.

27 (2)(a) The commission, subject to the provisions of this chapter,
28 may carry on or cause to be carried on any necessary and proper
29 production, irrigation, processing, transportation, export, handling,
30 or use of research or survey studies relating to potatoes and may
31 expend moneys for those purposes.

32 (b) The commission may engage in research and survey studies
33 including, but not limited to:

34 (i) Production problems, such as those associated with soil, seed,
35 and crop protection tools;

36 (ii) Developing and testing new potato cultivars with improved
37 disease-resistance, processing, nutritional, or horticultural
38 characteristics;

1 (iii) Improving techniques and methods of harvesting potatoes;
2 (iv) Developing and improving methods of processing potatoes and
3 potato by-products for the purpose of increasing and expanding their
4 use for food and industrial purposes;
5 (v) Improving packing and handling techniques that promote more
6 efficient operation in the transport, trade, and distribution of
7 potatoes;
8 (vi) Determining any special nutritive, nutraceutical, or
9 pharmaceutical qualities of potatoes produced in Washington; and
10 (vii) Conducting surveys and other research regarding production
11 practices, resource requirements and availability, and any other issues
12 or matters that may impact the continued production of potatoes in
13 Washington.
14 (c) The commission may, in addition to the activities in (b) of
15 this subsection, engage in any other proper and necessary research and
16 survey programs and activities consistent with and subject to the
17 limitations of this chapter. The research and survey studies may
18 include the collection of data and information relating to potatoes;
19 the analysis of the data and information; the dissemination of the
20 data, information, and analysis; and other investigation that falls
21 within the scope of the production, irrigation, use, processing,
22 transportation, or handling of potatoes.
23 (d) The commission, subject to this chapter, may coordinate the
24 state's potato crop protection chemical registrations and integrated
25 pest management implementation.
26 (3)(a) The commission may adopt rules, in accordance with chapter
27 34.05 RCW, to define, establish, and provide labeling requirements for
28 improving standards and grades for potatoes and may expend moneys for
29 such purposes.
30 (b) The commission shall give reasonable written notice to all
31 producers, handlers, and persons directly affected by the labeling
32 requirements issued under this section, in accordance with rule-making
33 proceedings conducted under chapter 34.05 RCW.
34 (c) The commission may cooperate with state and federal agencies or
35 departments responsible for revising and modernizing grades and
36 standards and labeling of potatoes.
37 (d) This section does not authorize the commission to set minimum

1 grades, sizes, or maturity of potatoes that a producer may sell, offer
2 for sale, or ship.

3 (4) The commission may conduct programs for the purpose of
4 providing factual and accurate information and education to the public
5 including:

6 (a) The economic, environmental, and nutritional value and benefits
7 of potatoes and the Washington potato industry;

8 (b) The quality, care, and methods used in the production of
9 Washington potatoes;

10 (c) The handling, preparation, and use of Washington potatoes and
11 potato products; and

12 (d) The effects of trade, transportation, and regulatory barriers
13 on the Washington potato industry.

14 (5) The commission may conduct programs for the purpose of
15 providing information and education to the Washington potato industry
16 including:

17 (a) Public opinion or awareness research information for producers
18 of potatoes;

19 (b) Industry-related education and training; and

20 (c) Information and services enabling producers to meet resource
21 conservation objectives and keep current with issues impacting their
22 business.

23 (6) The commission may, subject to this chapter, provide
24 information and communicate on matters pertaining to the production,
25 irrigation, processing, transportation, trade, or uses of potatoes
26 produced in Washington state, as requested by any elected official or
27 officer or employee of any agency.

28 NEW SECTION. **Sec. 8.** (1) An assessment shall be levied and
29 collected by the commission of four cents per hundredweight upon all
30 potatoes sold, processed, delivered for sale or processing by a
31 producer, or stored or delivered for storage when storage or delivery
32 for storage is outside the state. The assessment may be decreased or
33 increased at any time subject to a referendum approved by affected
34 potato producers in accordance with this chapter. The assessment shall
35 be paid by the producer. No assessment may be collected on:

36 (a) Potatoes grown and sold for seed under an established seed
37 certification program;

- 1 (b) Potatoes sold for livestock feed, regardless of grade;
2 (c) Potatoes sold for nonfood products, such as industrial starch;
3 (d) Potatoes of a producer's own production used by the producer on
4 the producer's own premises for seed, feed, or personal consumption;
5 (e) Potatoes donated or shipped for relief or charitable purposes;
6 or
7 (f) Potatoes sold by a producer whose production is less than five
8 hundred pounds per year.

9 (2)(a) All assessments made and levied under this chapter apply to
10 the respective producer who is primarily liable therefor.

11 (i) Handlers receiving potatoes from the producer, including, but
12 not limited to, warehousemen, shippers, and processors that collect
13 assessments from producers whose production they handle, shall pay
14 assessments collected to the commission on or before the twentieth day
15 of the succeeding month for the previous month's collections. On a
16 monthly basis, each handler shall file with the commission a return
17 under oath on forms to be furnished by the commission, stating the
18 quantity of potatoes handled, processed, delivered, or shipped during
19 the period prescribed by the commission.

20 (ii) Any person, producer, or handler subject to the payment of
21 assessments shall give adequate assurance or security concerning the
22 payments to the commission.

23 (b) On or before the beginning of each fiscal year, the commission
24 shall give reasonable notice to all producers, handlers, and other
25 affected persons of the method or methods of collection to be used for
26 that fiscal year on field run or ungraded potatoes.

27 (c) No affected units of potatoes may be transported, carried,
28 shipped, sold, stored, or otherwise handled or disposed of until every
29 due and payable assessment under this chapter has been paid and the
30 receipt issued or stamp canceled. No liability under this chapter
31 attaches to common carriers in the regular course of their business.
32 When any potatoes for which an exemption as provided in subsection (1)
33 of this section is claimed are shipped either by railroad or truck, the
34 reasons for the exemption shall be plainly noted on the bill of lading,
35 shipping document, container, or invoice.

36 (d) Any producer or handler who fails to comply with this
37 subsection is guilty of violating this chapter and is subject to the
38 penalty, collection, and liability provisions of this chapter.

1 (3)(a) Moneys collected by the commission under this chapter as
2 assessments shall be used by the commission only for the purposes of
3 paying for the costs or expenses arising in connection with carrying
4 out the purposes and provisions of this chapter.

5 (b) At the end of each fiscal year the commission shall credit each
6 producer with any amount paid by the producer in excess of three
7 percent of the total market value of all potatoes sold, processed, or
8 delivered for sale or processing during that period. Refunds may be
9 made only upon satisfactory proof given by the producer, which may
10 include bills of lading, bills of sale, or receipts.

11 NEW SECTION. **Sec. 9.** Assessments shall be levied upon potatoes
12 sold on a field run or ungraded basis as provided in this section.

13 (1) If payment to the grower for the potatoes is based upon the
14 gross weight of potatoes sold and not upon the yield of any particular
15 grade of potatoes as determined by any type of sorting or inspection,
16 then the assessment is made on ninety percent of the gross
17 hundredweight of potatoes so sold.

18 (2) If payment to the grower for the potatoes is based upon the net
19 weight of potatoes intended for human consumption derived from the
20 potatoes so sold as determined by any type of sorting or inspection,
21 then the assessment is made on the total net weight of potatoes
22 intended for human consumption.

23 NEW SECTION. **Sec. 10.** This section establishes the procedure for
24 reporting and paying assessments levied under this chapter.
25 Assessments shall be paid in accordance with one or more of the
26 following methods as prescribed by the commission, in its discretion,
27 for each affected producer or handler:

28 (1) By means of collection from producers by handlers, including
29 warehousemen, packers, and processors receiving potatoes from
30 producers, at the time the potatoes are first handled, and payment of
31 assessments by those handlers to the commission:

32 (a) The commission shall bill each handler at such intervals, at
33 least monthly, as the commission may from time to time determine, for
34 the assessments due upon potatoes handled in the preceding period for
35 which billing has not previously been made, and upon which assessments
36 have not been paid, computed on the basis of the quantity of potatoes

1 so handled as recorded on potato shipping pertaining to each handler
2 prepared by the department on behalf of the commission, and filed with
3 the commission, or with respect to handlers who are packers or
4 processors, on the basis of the quantity of potatoes so handled as
5 recorded on potato shipping records pertaining to such packer or
6 processor prepared by such processor and filed with the commission;

7 (b) As used in (a) of this subsection, "handler" is the person,
8 firm, or corporation designated as shipper on the potato shipping
9 record form;

10 (c) In the event potatoes subject to assessment are handled by
11 processors or other handlers under circumstances in which no potato
12 shipping record is filed with the commission, with respect to the
13 potatoes so handled the handler shall, at the time of submitting the
14 report required by (d) of this subsection, pay in full the assessment
15 on the potatoes so reported;

16 (d) Each handler shall file a monthly report, under oath, on forms
17 provided by the commission, showing the name and address of the handler
18 making the report, the quantity of potatoes handled during the
19 preceding calendar month, the name, address, handler's lot number, and
20 quantity of potatoes handled, for each respective producer, and the
21 representative district in which the potatoes were grown. The report
22 shall be filed with the commission not later than the twentieth day of
23 the month following that in which the potatoes were handled; or

24 (2) By means of payment in cash by the producer or handler, as
25 determined by the commission in each respective instance, before the
26 time the potatoes are shipped in either interstate or intrastate
27 commerce.

28 NEW SECTION. **Sec. 11.** Any due and payable assessment levied under
29 this chapter, and every sum due in a specified amount under this
30 chapter constitutes a personal debt of every person so assessed or who
31 otherwise owes the same, and the amount is due and payable to the
32 commission when payment is called for by the commission. In the event
33 that any assessment is not paid within ninety days after the date of
34 the billing by the commission, or within ninety days after the due date
35 of the report required by this chapter, a sum equal to ten percent of
36 the unpaid assessment or unpaid portion thereof shall be added to the
37 original amount and is due and owing to the commission. In the event

1 of failure of a person or persons to pay any such due and payable
2 assessment or other sum, the commission may bring a civil action
3 against the person or persons in a state court of competent
4 jurisdiction for the collection thereof, together with the additional
5 ten percent as provided in this section, and the action shall be tried
6 and judgment rendered as in any other cause of action for debt due and
7 payable.

8 NEW SECTION. **Sec. 12.** (1)(a) Any handler handling potatoes for
9 fresh market who has not established a record of prompt payment of
10 assessments due on fresh market potatoes in accordance with this
11 chapter must prepay the assessments due the commission.

12 (b) The amount of prepayment shall be determined on the estimated
13 basis of the potatoes the handler will handle during the first thirty
14 days of the potato shipping season, or if the handler has shipped in
15 the immediately prior potato shipping season, the prepayment shall be
16 based on the highest thirty-day assessment due the commission during
17 that shipping season. Prepayment shall not exceed twenty-five percent
18 of the total estimated annual assessment payable by the handler.

19 (2) Any handler who has established a record of prompt payment
20 during the entire previous potato shipping season and continues to
21 maintain a record of prompt payment is not subject to the prepayment
22 requirements in subsection (1) of this section.

23 NEW SECTION. **Sec. 13.** The commission shall notify the department
24 in writing of any handler who has not established a record of prompt
25 payment as set forth in this chapter, and that handler is subject to
26 this section. No affected units of potatoes shall be transported,
27 carried, shipped, sold, stored or otherwise handled or disposed of
28 until every due and payable assessment herein provided for has been
29 paid and the receipt issued, but no liability hereunder shall attach to
30 common carriers in the regular course of their business. When any
31 potatoes for which exemption as provided in this chapter is claimed are
32 shipped either by railroad or truck, there shall be plainly noted on
33 the bill of lading, shipping document, container or invoice, the
34 reasons for such exemptions.

1 NEW SECTION. **Sec. 14.** (1) Commission expenditures for
2 agricultural development or trade promotion and promotional hosting
3 shall be pursuant to specific budget items as approved by the
4 commission at annual public hearings on the commission budget.

5 (2) Individual commissioners and commission staff shall make
6 agricultural development or trade promotion and promotional hosting
7 expenditures, or seek reimbursements for those expenditures, only in
8 those instances where the expenditures have been approved by the
9 commission.

10 (3) All payments and reimbursements shall be as identified and
11 supported by vouchers to which receipts are attached. Voucher forms
12 will be supplied by the commission, and require the following
13 information:

14 (a) Name and position of each person hosted, however in the case of
15 a group of twenty-five or more persons, then only the name of the group
16 hosting shall be required;

17 (b) General purpose of the hosting;

18 (c) Date of hosting;

19 (d) To whom payment was or will be made; and

20 (e) Signature of person seeking payment or reimbursement;

21 (4) The chair of the commission, the executive director of the
22 commission, or assistant executive director of the commission may
23 approve direct payment or reimbursements submitted in accordance with
24 this section.

25 (5) The following persons may be hosted when it is reasonably
26 believed such hosting will promote trade for the Washington state
27 potato industry, as long as the hosting does not violate federal or
28 state conflict of interest laws:

29 (a) Individuals from private business and accompanying interpreter
30 or interpreters;

31 (b) Foreign government officials and accompanying interpreter or
32 interpreters;

33 (c) Federal, state, and local officials, however lodging, meals,
34 and transportation may not be provided when those officials may obtain
35 reimbursement for these expenses from their government employer;

36 (d) The general public, at meetings and gatherings open to the
37 general public;

1 (e) Commissioners and employees of the commission when their
2 attendance at meetings, meals, and gatherings at which the persons
3 described in (a) through (d) of this subsection are being hosted will
4 promote trade for the Washington state potato industry.

5 NEW SECTION. **Sec. 15.** (1) It is a misdemeanor for:

6 (a) Any person willfully to violate any provision of this chapter;

7 (b) Any person willfully to render or furnish a false or fraudulent
8 report, statement of record required by the commission under this
9 chapter, or any rule of the commission or rule of the department
10 adopted under this chapter, or willfully to fail or refuse to furnish
11 or render any such report, statement, or record so required.

12 (2) In the event of violation or threatened violation of any
13 provision of this chapter or any rule of the commission or rule of the
14 department adopted under this chapter, the commission is entitled to an
15 injunction to prevent further violation and to a decree of specific
16 performance of such rules, and to a temporary restraining order and
17 injunction pending litigation upon filing a verified complaint and
18 sufficient bond.

19 (3) All persons subject to this chapter shall severally from time
20 to time, upon the request of the commission, furnish the commission
21 with such information necessary to effectuate the policies of this
22 chapter or to ascertain and determine the extent to which this chapter
23 has been carried out or has effectuated such policies and purposes, or
24 to determine whether or not there has been any abuse of the privilege
25 of exemptions from laws relating to trusts, monopolies, and restraints
26 of trade. Such information shall be furnished in accordance with forms
27 and reports to be prescribed by the commission. For the purpose of
28 ascertaining the correctness of any report made to the commission under
29 this section or for the purpose of obtaining the information required
30 in any such report where it has been requested and has not been
31 furnished, the commission is authorized to examine such books, papers,
32 records, copies of tax reports, accounts, correspondence, contracts,
33 documents, or memoranda as the commission deems relevant and that are
34 within the control of any such person from whom such report was
35 requested, or of any person having, either directly or indirectly,
36 actual or legal control of or over such person or such records, or of
37 any subsidiary of any such person. To carry out the purposes of this

1 section, the commission, upon giving due notice, may hold hearings,
2 take testimony, administer oaths, subpoena witnesses, and issue
3 subpoenas for the production of books, records, documents, or other
4 writings of any kind, and shall apply with respect to any such hearing,
5 together with such other rules consistent therewith as the commission
6 may from time to time prescribe.

7 NEW SECTION. **Sec. 16.** Moneys collected by the commission under
8 this chapter from any assessment or as an advance deposit thereon shall
9 be used by the commission only for the purpose of paying for the costs
10 or expenses arising in connection with carrying out the purposes and
11 provisions of this chapter.

12 If the commission is ever terminated any and all moneys remaining
13 with the commission operating under this chapter and not required to
14 defray expenses or repay obligations incurred by that commission shall
15 be returned to the affected producers in proportion to the assessments
16 paid by each in the two-year period preceding the date of the
17 termination.

18 NEW SECTION. **Sec. 17.** If after complying with the procedures
19 outlined in this chapter and a referendum proposal to terminate the
20 commission is assented to, the commission shall:

21 (1) Document the details of all measures undertaken to terminate
22 the commission and identify and document all closing costs;

23 (2) Contact the office of the state auditor and arrange for a final
24 audit of the commission. Payment for the audit shall be from
25 commission funds and identified in the budget for closing costs;

26 (3) Provide for the reimbursement to affected producers of moneys
27 collected by assessment. Reimbursement shall be made to those
28 considered affected producers over the previous three-year time frame
29 on a pro rata basis and at a percent commensurate with their volume of
30 production over the previous three-year period. If the commission
31 finds that the amounts of moneys are so small as to make impractical
32 the computation and remitting of the pro rata refund, the moneys shall
33 be paid into the state treasury as unclaimed trust moneys; and

34 (4) Transfer all remaining files to the department for storage and
35 archiving, as appropriate.

1 NEW SECTION. **Sec. 18.** Any due and payable assessment levied under
2 this chapter, and every sum due under this chapter in a specified
3 amount constitutes a personal debt of every person so assessed or who
4 otherwise owes the same, and the same shall be due and payable to the
5 commission when payment is called for by the commission. In the event
6 any person fails to pay the full amount of the assessment or such other
7 sum on or before the date due, the commission may add to the unpaid
8 assessment or sum an amount not exceeding ten percent of the same to
9 defray the cost of enforcing collection of it. In the event of failure
10 of such person or persons to pay any such due and payable assessment or
11 other such sum, the commission may bring a civil action against such
12 person or persons in a state court of competent jurisdiction for the
13 collection thereof, together with the above specified ten percent
14 thereon, and such action shall be tried and judgment rendered as in any
15 other cause of action for debt due and payable.

16 NEW SECTION. **Sec. 19.** All moneys that are collected or otherwise
17 received under this chapter shall be used solely by and for the
18 commission and shall not be used for any other commission, nor the
19 department except as otherwise provided in this chapter. Such moneys
20 shall be deposited in a separate account or accounts in the name of the
21 commission in any bank that is a state depository. All expenses and
22 disbursements incurred and made under the provisions of this chapter
23 shall be paid from moneys collected and received under this chapter
24 without the necessity of a specific legislative appropriation and all
25 moneys shall be paid from the account by check or voucher in such form
26 and in such manner and upon the signature of such person as may be
27 prescribed by the commission. The provisions of RCW 43.01.050 do not
28 apply to any such account or any moneys so received, collected, or
29 expended.

30 NEW SECTION. **Sec. 20.** (1) Any funds of the commission may be
31 invested in savings or time deposits in a public depository as defined
32 in RCW 39.58.010.

33 (2) This section applies to all funds that may be lawfully so
34 invested, that in the judgment of the commission are not required for
35 immediate expenditure. The authority granted by this section is not
36 exclusive and shall be construed to be cumulative and in addition to

1 other authority provided by law for the investment of such funds,
2 including, but not limited to, authority granted under chapters 39.58,
3 39.59, and 43.84 RCW.

4 NEW SECTION. **Sec. 21.** Every administrator, employee, or other
5 person occupying a position of trust with the commission and every
6 member actually handling or drawing upon funds shall give a bond in
7 such penal amount as may be required by the commission, the premium for
8 which bond or bonds shall be paid by the commission.

9 NEW SECTION. **Sec. 22.** (1) Pursuant to RCW 42.17.31907, certain
10 agricultural business records, commodity commission records, and
11 department of agriculture records relating to commodity commissions and
12 producers of agricultural commodities are exempt from public
13 disclosure.

14 (2) Financial and commercial information and records submitted to
15 either the department or the commission for the purpose of
16 administering this chapter may be shared between the department and the
17 commission. They may also be used, if required, in any suit or
18 administrative hearing involving any provision of this chapter.

19 (3) This chapter does not prohibit:

20 (a) The issuance of general statements based upon the reports of a
21 number of persons subject to this chapter as long as the statements do
22 not identify the information furnished by any person; or

23 (b) The publication by the commission of the name of any person
24 violating this chapter and a statement of the manner of the violation
25 by that person.

26 NEW SECTION. **Sec. 23.** (1) The commission shall prepare a list of
27 all affected producers from any information available from the
28 department, producers, producer associations, organizations, or
29 handlers of potatoes. This list shall contain the names and addresses
30 of all affected persons who produce the potatoes and the amount, by
31 unit, of the potatoes produced during at least the past three years.

32 (2) The commission shall prepare a list of all persons who handle
33 potatoes and the amount of potatoes handled by each person during at
34 least the past three years.

1 (3) It is the responsibility of all affected parties to ensure that
2 their correct address is filed with the commission. It is also the
3 responsibility of affected parties to submit production data and
4 handling data to the commission as prescribed by the commission's rules
5 or policies.

6 (4) Any qualified person may, at any time, have his or her name
7 placed upon any list for which he or she qualifies by delivering or
8 mailing the information to the commission. The lists shall be
9 corrected and brought up-to-date in accordance with evidence and
10 information provided to the commission.

11 (5) The commission shall maintain a certified list of affected
12 producers or affected handlers from its records. The list shall
13 contain all information required to conduct a referendum or commission
14 member elections under this chapter.

15 (6) For all purposes of giving notice and holding referenda on
16 amendment or termination proposals, and for giving notice and electing
17 or selecting members of the commission, the applicable list corrected
18 up to the day preceding the date the list is certified by the
19 commission is deemed to be the list of all affected producers or
20 affected handlers, as applicable, entitled to notice or to vote.
21 Inadvertent failure to notify an affected producer or handler does not
22 invalidate a proceeding conducted under this chapter.

23 NEW SECTION. **Sec. 24.** Any member of a commission may also be a
24 member or officer of an association that has the same objectives for
25 which the commission was formed. The commission may also contract with
26 such association for services necessary to carry out any purposes
27 authorized under this chapter, if an appropriate contract has been
28 entered into.

29 NEW SECTION. **Sec. 25.** Nothing in this chapter permits the fixing
30 of prices not otherwise permitted by law or any limitation on
31 production and no agreement or any rule thereunder may contain any such
32 provisions.

33 NEW SECTION. **Sec. 26.** (1) Upon completion of any vote,
34 referendum, or nomination and elections, the director shall tally the
35 results of the vote and provide the results to affected parties.

1 (2) If an affected party disputes the results of a vote, that
2 affected party, within sixty days from the announced results, shall
3 provide in writing a statement of why the vote is disputed and request
4 a recount.

5 (3) Once the vote is tallied and distributed, all disputes are
6 resolved, and all matters in a vote are finalized, the individual
7 ballots may be destroyed.

8 NEW SECTION. **Sec. 27.** The members of the commission may, subject
9 to approval by two-thirds of the voting members of the commission,
10 suspend for a period not exceeding one crop-year at a time all or part
11 of the assessments on potatoes subject to this chapter.

12 NEW SECTION. **Sec. 28.** The director may adopt rules necessary to
13 carry out the duties and responsibilities under this chapter including,
14 but not limited to:

15 (1) The issuance, amendment, suspension, or termination of rules
16 associated with this chapter;

17 (2) Procedural, technical, or administrative rules that may address
18 and include, but are not limited to:

19 (a) Nominations conducted under this chapter; and

20 (b) Elections of commission members or referenda conducted under
21 this chapter.

22 NEW SECTION. **Sec. 29.** (1) The substance of a petition received
23 under this chapter to amend or terminate commission programs or
24 assessments shall be set out in detail and designated as the proposal.
25 A copy of the proposal shall be mailed by the department to all
26 affected parties or producers based on the list provided for under this
27 chapter, as applicable, and shall be posted on the department's web
28 site.

29 (2) Notice of a public hearing to amend or terminate the commission
30 shall be published in the form of a legal notice for a period of two
31 days in a newspaper of general circulation within the affected areas,
32 as the director may prescribe. The notice must also be posted on the
33 department's web site. The department shall mail a copy of the public
34 hearing notice along with a copy of the proposal as provided in
35 subsection (1) of this section to all affected parties or affected

1 producers, as applicable, who may be directly affected by the proposal
2 and whose names and addresses appear on the list compiled under this
3 chapter. The mailing must include the department's web site address
4 along with a description of the process for the amendment or
5 termination of the commission, as applicable.

6 (3) At a public hearing, the director shall receive testimony
7 offered in support of, or opposition to, the proposed amendment to or
8 termination of the commission and concerning the terms, conditions,
9 scope, and area thereof. The hearing shall be public and all testimony
10 shall be received under oath. A full and complete record of all
11 proceedings at such hearings shall be made and maintained on file in
12 the office of the director, which file shall be open to public
13 inspection. The director shall base any findings upon the testimony
14 received at the hearing, together with any other relevant facts
15 available from official publications of institutions of recognized
16 standing. The director shall describe in the findings such official
17 publications upon which any finding is based.

18 (4) The director has the power to subpoena witnesses and to issue
19 subpoenas for the production of any books, records, or documents of any
20 kind.

21 (5) The superior court of the county in which any hearing or
22 proceeding may be had may compel the attendance of witnesses and the
23 production of records, papers, books, accounts, documents, and
24 testimony as required by such subpoena. The director, in case of the
25 refusal of any witness to attest or testify or produce any papers
26 required by the subpoena, shall report to the superior court of the
27 county in which the proceeding is pending by petition setting forth
28 that due notice has been given of the time and place of attendance of
29 the witness or the production of the papers and that the witness has
30 been summoned in the manner prescribed in this chapter and that he or
31 she has failed to attend or produce the papers required by the subpoena
32 at the hearing, cause, or proceeding specified in the subpoena, or has
33 refused to answer questions propounded to it in the course of such
34 hearing, cause, or proceeding, and shall ask an order of the court to
35 compel a witness to appear and testify before the director. The court,
36 upon such petition, shall enter an order directing the witness to
37 appear before the court at a time and place to be fixed in such order
38 and then and there to show cause why he or she has not responded to the

1 subpoena. A copy of the order shall be served upon the witness. If it
2 appears to the court that the subpoena was regularly issued, it shall
3 enter an order that the witness appear at the time and place fixed in
4 the order and testify or produce the required papers, and on failing to
5 obey the order, the witness shall be dealt with as for contempt of
6 court.

7 NEW SECTION. **Sec. 30.** (1) The director shall make findings upon
8 material points controverted at the hearing and required by this
9 chapter and upon such other matters and things as the director may deem
10 fitting and proper. Based upon those findings, the director shall make
11 conclusions and develop and issue a recommended decision. The
12 findings, conclusions, and recommended decision, and the full text of
13 the proposal shall be posted on the department's web site.

14 (2) The recommended decision may deny or approve the proposal in
15 its entirety, or it may recommend a rule containing other or different
16 terms or conditions from those contained in the proposal, however any
17 such rule shall be of a kind or type substantially within the purview
18 of the notice of hearing and shall be supported by evidence taken at
19 the hearing or by documents of which the director is authorized to take
20 official notice. The director shall not approve the amendment or
21 termination unless he or she finds with respect thereto:

22 (a) That the proposed issuance, amendment, or termination thereof
23 is reasonably calculated to attain the objective sought in a rule;

24 (b) That the proposed issuance, amendment, or termination is in
25 conformity with this chapter and, within the applicable limitations and
26 restrictions in this chapter, will tend to effectuate its declared
27 purposes and policies; and

28 (c) That the interests of consumers of potatoes are protected in
29 that the powers of this chapter are being exercised only to the extent
30 necessary to attain such objectives.

31 (3) If the director's recommended decision does not make any
32 changes to the proposal, notification will be made by mail in the form
33 of a postcard reciting the recommended decision. The postcard must
34 also include the department's web site address where any person can
35 access the full text of the findings, conclusions, and recommended
36 decision.

1 (4) If the director's recommended decision makes changes to the
2 proposal or does not support the proposal, notification will be made by
3 mail in the form of a letter describing the changes made or explaining
4 the reason for not supporting the proposal and a referendum. The
5 letter must also include the department's web site address where any
6 person can access the full text of the findings, conclusions, and
7 recommended decision.

8 (5) After the director issues his or her findings, conclusions, and
9 recommended decision, all interested parties shall have a period of not
10 less than fifteen days from the date of the mailing of the postcard or
11 letter to file statements with the director in support of or in
12 opposition to the recommended decision. The director shall consider
13 the additional statements and shall issue his or her final decision.
14 The final decision may be the same as the recommended decision or may
15 be revised in light of the additional information received in response
16 to the recommended decision. The director shall notify affected
17 parties of his or her final decision by mail in the form of a postcard.
18 Notification shall include the department's web site address where any
19 person can access the full text of the findings, conclusions, and final
20 decision and the full text of the final proposal. If the final
21 decision denies the proposal in its entirety, no further action may be
22 taken by the director.

23 (6) Affected parties who do not have access to materials posted on
24 the department's web site may request notification by fax or mail.

25 NEW SECTION. **Sec. 31.** After the director issues his or her final
26 decision approving the amendment or termination, the director shall
27 determine by a referendum whether the affected parties or producers
28 assent to the proposed action or not. The director shall conduct the
29 referendum among the affected parties or producers based on the list as
30 provided for in this chapter, as applicable. The affected parties or
31 producers shall be deemed to have assented to the proposed issuance or
32 termination order if fifty-one percent or more by number reply to the
33 referendum within the time specified by the director, and if, of those
34 replying (a) sixty-five percent or more by number and fifty-one percent
35 or more by volume assent to the proposed order; or (b) sixty percent or
36 more by number and sixty percent or more by volume of those replying
37 assent to the proposed order. The determination by volume shall be

1 made on the basis of volume as determined in the list of affected
2 producers created under this chapter, subject to rules of the director
3 for such determination. Results of the referendum shall be mailed to
4 all affected parties in the form of a postcard. If the requisite
5 assent is given, the director shall adopt the order.

6 NEW SECTION. **Sec. 32.** (1) All rule-making proceedings conducted
7 under this chapter shall be in accordance with chapter 34.05 RCW.

8 (2) Rule-making proceedings conducted under this chapter are exempt
9 from compliance with RCW 34.05.310, chapter 19.85 RCW, the regulatory
10 fairness act, and RCW 43.135.055 when adoption of the rule is
11 determined by a referendum vote of the affected parties.

12 (3) The commission may adopt amendments to rules associated with
13 this chapter without conducting a referendum if the amendments are
14 adopted under the following criteria:

15 (a) The proposed amendments relate only to internal administration
16 of this chapter and are not subject to violation by a person;

17 (b) The proposed amendments adopt or incorporate by reference
18 without material change federal statutes or regulations, Washington
19 state statutes, or rules of other Washington state agencies, if the
20 material adopted or incorporated regulates the same activities as are
21 authorized under this chapter;

22 (c) The proposed amendments only correct typographical errors, make
23 address or name changes, or clarify language of a rule in accordance
24 with this chapter;

25 (d) The content of the proposed amendments is explicitly and
26 specifically dictated by statute.

27 **Sec. 33.** RCW 15.66.270 and 1961 c 11 s 15.66.270 are each amended
28 to read as follows:

29 Nothing in this chapter contained shall apply to:

30 (1) Any order, rule, or regulation issued or issuable by the
31 Washington utilities and transportation commission or the interstate
32 commerce commission with respect to the operation of common carriers;

33 (2) Any provision of the statutes of the state of Washington
34 relating to the Washington apple (~~(advertising)~~) commission (chapter
35 15.24 RCW), to the soft tree fruits commission (chapter 15.28 RCW)
36 (~~(or)~~), to the dairy products commission (chapter 15.44 RCW), or to the

1 potato commission established in chapter 15.-- RCW (sections 1 through
2 32 and 35 of this act). No marketing agreement or order shall be
3 issued with respect to apples, soft tree fruits (~~(or)~~), dairy products,
4 or potatoes for human consumption, for the purposes specified in RCW
5 15.66.030(1) or 15.66.030(2).

6 NEW SECTION. Sec. 34. (1) The potato commission established in
7 chapter 16-516 WAC is hereby abolished and its powers, duties, and
8 functions are hereby transferred to the potato commission created in
9 this act.

10 (2)(a) All reports, documents, surveys, books, records, files,
11 papers, or written material in the possession of the potato commission
12 established in chapter 16-516 WAC shall be transferred to the custody
13 of the potato commission created by this act. All cabinets, furniture,
14 office equipment, motor vehicles, and other tangible property employed
15 by the potato commission established in chapter 16-516 WAC shall be
16 made available to the potato commission created by this act. All
17 funds, credits, or other assets held by the potato commission
18 established in chapter 16-516 WAC shall be assigned to the potato
19 commission created by this act.

20 (b) Any appropriations made to the potato commission established in
21 chapter 16-516 WAC shall, on the effective date of this section, be
22 transferred and credited to the potato commission created by this act.

23 (c) If any question arises as to the transfer of any personnel,
24 funds, books, documents, records, papers, files, equipment, or other
25 tangible property used or held in the exercise of the powers and the
26 performance of the duties and functions transferred, the director of
27 financial management shall make a determination as to the proper
28 allocation and certify the same to the state agencies concerned.

29 (3) All employees of the potato commission established in chapter
30 16-516 WAC are transferred to the jurisdiction of the potato commission
31 created by this act. All members of the potato commission established
32 in chapter 16-516 WAC shall continue as members of the potato
33 commission established in chapter 16-516 WAC until their terms expire.

34 (4) All rules and all pending business before the potato commission
35 established in chapter 16-516 WAC shall be continued and acted upon by
36 the potato commission created by this act. All existing contracts and

1 obligations shall remain in full force and shall be performed by the
2 potato commission created by this act.

3 (5) The transfer of the powers, duties, functions, and personnel of
4 the potato commission established in chapter 16-516 WAC shall not
5 affect the validity of any act performed before the effective date of
6 this section.

7 (6) If apportionments of budgeted funds are required because of the
8 transfers directed by this section, the director of financial
9 management shall certify the apportionments to the agencies affected,
10 the state auditor, and the state treasurer. Each of these shall make
11 the appropriate transfer and adjustments in funds and appropriation
12 accounts and equipment records in accordance with the certification.

13 (7) Nothing contained in this section may be construed to alter any
14 existing collective bargaining unit or the provisions of any existing
15 collective bargaining agreement until the agreement has expired or
16 until the bargaining unit has been modified by action of the personnel
17 resources board as provided by law.

18 NEW SECTION. **Sec. 35.** Potatoes that are certified as organically
19 grown under chapter 15.86 RCW are exempt from assessments under this
20 chapter if a separate commodity commission is formed to include
21 organically grown potatoes.

22 NEW SECTION. **Sec. 36.** Sections 1 through 32 and 35 of this act
23 constitute a new chapter in Title 15 RCW.

24 NEW SECTION. **Sec. 37.** This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 July 1, 2005.

28 NEW SECTION. **Sec. 38.** If any section, subsection, sentence,
29 clause, or part of this chapter is for any reason held to be invalid or
30 unconstitutional, the judicial decision does not affect the remainder
31 of the chapter and its application to other persons or circumstances.
32 The legislature declares that each section, subsection, sentence,
33 clause, and part of this chapter was enacted with the intent that if

1 any portion of this chapter is severed, the remainder of the chapter is
2 capable of accomplishing its legislative purpose.

--- END ---